UNITED
NATIONS

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Economic and Social
Council

Distr.
GENERAL

E/CN.4/Sub.2/1992/NGO/5
4 August 1992

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-fourth session
Agenda item 8

THE REALIZATION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Written statement submitted by Habitat International Coalition, a non-governmental organization on the roster

The Secretary-General has received the following communication, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[20 June 1992]

Implementing housing rights

1. Habit International Coalition (HIC) has been actively promoting the need for a sustained focus on the realization of the right to adequate housing within various human rights bodies of the United Nations. We strongly support, therefore, the appointment at the forty-third session of the Sub-Commission, on 28 August 1991, of Mr. Rajindar Sachar to carry out a feasibility study on the right to adequate housing, pursuant to resolution 1991/26.

GE.92-12967/4861H

2. The adoption at the sixth session of the Committee on Economic, Social and Cultural Rights of "General Comment No. 4 on the Right to Adequate Housing" also represents a significant development towards a broader interpretation of this right by the United Nations. Particularly welcome is the recognition by the Committee in paragraph 7 that the right to housing should not be interpreted in a narrow or restrictive sense which equates it with, for example, a shelter provided by merely having a roof over one's head or views shelter exclusively as a commodity. Rather it should be seen as the right to live somewhere in security, peace and dignity.

3. It is also worth recalling the specific mention made by Mr. Türk, Special Rapporteur on the Realization of Economic, Social and Cultural Rights concerning the right to adequate housing in his first progress report, that "virtually no analytical work has been carried out in the human rights organs of the United Nations directly concerning housing rights" (E/CN.4/Sub.2/1990/19, para. 108).

4. Several of the most significant initiatives of the human rights bodies vis-à-vis housing rights were re-affirmed in resolution 1992/10 of the Commission on Human Rights, indicating both the growing interest in this underdeveloped legal issue, as well as the need for pursuing longer-term and concerted efforts on substantiating the right to adequate housing.

5. In addition to the focus emerging at the United Nations human rights bodies, HIC itself works closely with numerous people-based campaigns, movements, initiatives and coalitions which are currently struggling to attain and project the right to housing in a holistic manner. Many HIC members have sought to influence the formation of national housing policies and legislation to reflect and build upon the principle of housing as a human right.

6. Our experience has revealed time and again the imperative of de-centralized, bottom-up and self-determined approaches towards solving society's housing dilemmas. The validity of such approaches and the lessons learned from them are increasingly gaining governmental recognition, such that several States have recently adopted enabling legislation and policies designed to concretize and achieve housing rights, based largely on ideas and input by local and national non-governmental organizations. Such measures, of course, demonstrate that far from being an obscure and abstract notion, the right to housing has real and practical applicability for citizens.

7. Despite sporadic gains, however, the right to adequate housing continues to be subject to massive, and often intentional infringement in virtually every member State of the international community. Habitat International Coalition would, therefore, consider it of the utmost importance that the human rights programme of the United Nations develop the necessary capacity and mechanisms to understand and grasp the numerous dimensions of the right to housing, and widespread violations to which this right is subject and, most importantly, to effectively rectify and redress them. A strengthened focus by the United Nations on housing rights can greatly assist States in developing constructive policies and legislation such that the right can be achieved by their citizens.

Housing rights violations

8. The debate and attention to the various issues arising from this enhanced focus on housing rights has led to the recognition that not only can housing rights be violated, but in fact, that these rights are routinely subject to clear, proven and repeated infringement.

9. Resolution 1991/12 adopted by the Sub-Commission at its forty-third session entitled "Forced Evictions" recognized that, inter alia, forced evictions are a gross violation of human rights in particular the right to adequate housing. This resolution indicated the willingness of the Sub-Commission to look at violations of housing rights. Evictions remain, however, only one of the many violations to which the right to housing is routinely subject.

10. While forced evictions constitute perhaps the most blatant violation of housing rights, a wide range of additional acts as well as omissions could also be labelled to be inconsistent with the obligations inherent in the right to adequate housing. For instance, acts amounting to infringements of housing rights could entail:

(a) demolition, sealing or destruction of houses;

(b) deliberate denial of basic civic services;

(c) active or tolerated discrimination preventing the realization of housing rights;

(d) adoption of legislation or policies inconsistent with housing rights obligations, and/or repealing legislation protecting housing rights;

(e) excessive and unjustifiable reduction in public expenditure on housing services, in particular during periods of economic structural adjustment;

(f) harassment or intimidation of non-governmental organizations working in the housing rights field; and

(g) ignoring or repudiating United Nations resolutions, decisions, recommendations, comments or other agreements concerning housing rights.

11. In addition to practices contrary to housing rights, a number of failures to act (omissions) by Governments could also be deemed incompatible with the right to housing. For instance:

(a) failing to "take appropriate steps" such as outlined under the Covenant on Economic, Social and Cultural Rights;

(b) failing to reformulate or repeal legislation manifestly inconsistent with the Covenant;

(c) failing to enforce or implement legislation indispensable for the realization of housing rights;

(d) failing to intervene in or regulate sufficiently the housing market, in particular in the areas of speculation on land and housing, housing finance, housing costs, the provision of security of tenure, etc;

(e) failing to provide basic services, infrastructure and basic building materials; and

(f) failing to harmonize government-wide housing-related policy and legislation.

12. Renewed and sustainable attention to the achievement of the right to housing by the human rights bodies of the United Nations is also necessary as a means for preventing future social conflict and attendant violations of housing rights in the future.

13. In addition to identifying and addressing violations, a study on the right to housing can assist in clarifying the distinctions between this right and the right to property - two rights which although similar in appearance have very different implications.

14. Given the numerous legal provisions of the right to housing currently in place under international law, the recent work of the Committee on Economic, Social and Cultural Rights, the recognition of these efforts by the Commission on Human Rights and the efforts of non-governmental organizations across the world, combine to create a strong foundation from which to launch a sustained and detailed study on the right to adequate housing, under the guidance of the Sub-Commission.

15. Habitat International Coalition strongly urges the Sub-Commission to officially appoint Mr. Rajindar Sachar as Special Rapporteur on Promoting the Realization of the Right to Adequate Housing, so that a comprehensive study, that the right to housing surely deserves, be undertaken. By supporting such an appointment, the Sub-Commission would provide a positive contribution towards the practical realization of the right to adequate housing, and to the field of economic, social and cultural rights as a whole.